IN THE HIGH COURT OF MADHYA PRADESH AT JABALPUR

WRIT PETITION NO. 3379 OF 1994

PETITIONERS: 1. R.S.Gupta, son of Shri B.L.GUPTA, aged about 31 years, resident of R.C.-1, RRRT Complex, Post Kusmunda Colliery, Distt. Bilaspur.

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Filed on 30/9/94
by Shri Gupta
Advocate

2. Coal Mines Officer's Association of India, through Joint Secretary General, (Shri R.S. Gupta), RC-1 RRT, Complex, Post Kusmunda Colliery, District Bilaspur.

R. to D.R.
D&S/8

-VERSUS-

RESPONDENTS: 1. Coal India Ltd. through Chairman, 10, Netaji Subhash Road, Calcutta.

2. South Eastern Coal Fields Ltd. through Chairman Cum-Managing Director Seepat Road, Bilaspur, M.P.

PETITION UNDER ARTICLES 226/227 OF THE CONSTITUTION OF INDIA.

AFR

HIGH COURT OF JUDICATURE CHHATTISGARH: BILASPUR

Single Bench: Hon'ble Shri Satish K. Agnihotri, J.

WRIT PETITION NO. 3379 OF 1994

R.S. Gupta and another

Versus

Coal India Ltd. & another

Present: Shri V.V.S. Moorthy, Senior Advocate with Shri R.M. Solapurkar, Advocate for the petitioners.
Shri R.S. Baghel, Advocate for the respondents.

ORAL ORDER

(13th December, 2005)

The following Order of the Court was passed by **Satish K. Agnihotri, J : -**

1. The present writ petition filed under Article 226 of the Constitution of India seeks for writ/direction against the respondents to effect promotion of the petitioner No. 1 from E-2 to E-3 and E-4 with all financial benefits.

2. The petitioner No.1 was appointed on 24.6.85 (Annexure P-7) as Junior Executive Trainee (Mining). Clause 4.1 of the appointment order provides as follows:- "On satisfactory completion of your training and after passing such tests and examinations as may be prescribed from time to time for the purpose, you may be appointed on probation for a period of one year to a regular post carrying the scale of

pay of Rs. 1130-2400/- as the direction of the Company. The actual post, to which you will be appointed, will depend upon your aptitude and performance during the training."

3. The petitioner No.1 completed his satisfactory training, accordingly he was appointed on the post of Junior Mining Engineer/E-2 w.e.f. 12.7.1986 vide letter dated 30th May, 1988 (Annexure P-8).

4. The petitioners have filed this petition for further promotion of the petitioner No. 1 to the post of E-2 to E-3 and onwards with all financial benefits. According to the petitioners, the petitioner No.1 was not considered for promotion from E-2 to E-3 after completion of 3 years on the post of E-2 and further on acquiring 2nd Class Mine Managers Certificate of Competency. The petitioner made a representation to the Chairman, CIL/SECL and to the Director (P & R), CIL/SECL, Culcutta/Bilaspur on 26.3.1993 (Annexure P-22). Additional Chief Personnel Manager (EE), SECL Headquarters, Bilaspur vide his letter dated 14.8.93 (Annexure P-23), rejected the representation of the petitioner in following terms :-

"Please refer to your representation dated 26.3.1993 on the above subject.

In this connection, this is to mention that as per the extent cadre scheme 2nd Class Mine Managers Certificate of Competency is required and 4 atleast 4 years experience as Under Manager after obtaining 2nd Class Certificate. In view of this, you will appreciate that it would not be possible for considering your promotion to E-3 grade. It

may also be mentioned here that this matter was also discussed threadbare in the minutes of meeting held with CMOAI at SECL HQs. on 19.10.92 under item no. 3 wherein the point was made clear."

5. In the letter dated 14.8.93, a reference was made to the minutes of meeting held on 19.10.92 under item No. 3. The minutes of the meeting held with CMOAI at SECL Headquarters on 19.10.92 (Annexure P-28) decided case of the petitioner as under :-

> "The CMOAI members were informed that Shri Gupta does not possess the 2nd Class Mine Managers Certificate of Competency, hence as per cadre scheme Shri Gupta can not be promoted unless he puts in atleast 4 years experience as Under Manager after obtaining the 2nd Class Certificate. However the CMOAI members expressed that Shri Gupta wishes to request for horizontal movement from mining to other discipline."

6. The respondents/Board vide letter dated 14.8.93 has rejected the representation on the ground that the petitioner No.1 had not obtained 2nd Class Mine Managers Certificate of Competency as required and at least 4 years experience of working as Under Manager, after obtaining 2nd Class Mine Managers Certificate. Admittedly, the petitioner has acquired 2nd Class Mine Managers Certificate of Competency on 6.4.1993 vide letter dated 21.10.1994 (Annexure P-24).

7. Shri V.V.S. Moorthy, learned Senior Advocate with Shri R.M. Solapurkar, Advocate appearing for the petitioner pointed out that eligibility norms for promotion as per the

Circular dated 28.10.1987 provides for 3 years in a particular grade before he becomes eligible for consideration for promotion to the next higher grade.

8. Learned counsel further refers to the Mining Discipline wherein it is provided that for promotion from E-2 to E-3 the requirement is only 2nd Class Mine Managers Certificate of Competency in addition to 3 years experience on a particular post. According to the petitioners, the petitioner No.1 had already spent more than 6 years on the post of E-2 and had also acquired 2nd Class Mine Managers Certificate of Competency and as such the letter dated 14.8.1993 is not in accordance with law and contrary to guidelines and circulars.

9. Shri R. S. Baghel, learned counsel appearing for the respondents is not in a position to point out any Circular after October, 1987 which provides that for promotion from E-2 to E-3 the requirement is 4 years experience as Under Manager after obtaining 2nd Class Mine Managers Certificate of Competency. Be that as it may, the letters and various circulars annexed to the petition as well as to the return filed by the respondents make it clear that the petitioner No.1 is entitled to consideration for promotion to higher post after having completed minimum 3 years on a particular post with certain qualification as prescribed in Mining Discipline (Appendix IV (2)-1 annexed to the Common Coal Cadre)

10. In the facts and circumstances of the case and for the reasons stated above, the respondents are directed to consider the case of the petitioner in accordance with law for promotion from E-2 to E-3 and onwards within a period of 3 months from the date of receipt of this order.

11. Accordingly, the writ petition is disposed of. No order as to costs.

Sd/-
Satish K. Agnihotri
Judge

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